

Comment Set 34



Making San Francisco Bay Better

July 30, 2003

Ms. Judy Brown
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

SUBJECT: Comments on the Draft Environmental Impact Report
for the Concord to Sacramento Petroleum
Products Pipeline Project, proposed by Sante Fe Pacific Partners, LP
State Clearinghouse No. 2002022010
BCDC Permit Nos. M02-64 and 6-02

Dear Ms. Brown,

On June 13, 2003, the San Francisco Bay Conservation and Development Commission staff received the Draft Environmental Impact Report to install and operate a new, 20-inch-in-diameter petroleum pipeline that would carry gasoline, diesel fuel and jet fuel using trenching and horizontal directional drilling (HDD) from the existing Sante Fe Pacific Partners (SFPP) Concord Station in Contra Costa County to the existing SFPP Sacramento Station, in the City of West Sacramento. Due to the limits in HDD technology at this time, installation of the pipeline segment that would cross Carquinez Strait would be installed in two phases. Phase One would involve connecting the new, 20-inch-in-diameter pipeline segment that would be installed from the Concord Station northward with the existing 14-inch-in-diameter pipeline that passes beneath the Carquinez Strait. Connection to the existing pipeline would be accomplished by installing a permanent above-ground pig launcher/receiver station on the south and north sides of the Carquinez Strait. Phase Two would occur approximately 7 to 12 years after Phase One has been completed and assumes that capacity of the proposed system will have been reached, and that HDD drilling techniques will have been enhanced enabling installation of the new 20-inch-in-diameter line beneath the Strait. Phase Two would involve installing a new section of line beneath a section of the existing Peyton Slough, between the existing Peyton Slough and the proposed new alignment of the Slough, and beneath the Carquinez Strait. Phase Two would also involve installing a work area and a pipeline stringing area in tidal marsh located between the existing Peyton Slough and the proposed new alignment.

The Commission staff has reviewed the Draft Environmental Impact Report (EIR) and is submitting its comments regarding the document. Although the Commission itself has not reviewed the environmental document, the staff comments are based on the McAteer-Petris Act and the Commission's *San Francisco Bay Plan*.

Jurisdiction

The Commission's area of jurisdiction includes all tidal areas of the Bay up to the line of mean high tide, all areas formerly subject to tidal action that have been filled since September

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17, 1965, marshlands lying between mean high tide and five feet above mean sea level, and the "shoreline band," which extends 100 feet inland from and parallel to the Bay jurisdiction. The Commission also has jurisdiction over the Suisun Marsh and other managed wetlands adjacent to the Bay, salt ponds, and certain waterways.

On October 21, 2002, SFPP, LP., submitted a permit application for the Phase I activities associated with pipeline installation proposed in the Commission's jurisdiction. The Commission staff is supportive of the Phase I portion of the project and anticipates issuing an administrative permit for the activities once the staff receives notification that the EIS for the project has been certified and also receives additional information regarding the project requested in a letter to Mr. David Corman of SFPP, L.P. dated November 20, 2002. However, staff has some concerns regarding the Phase 2 activities associated with the pipeline crossing, particular those activities proposed in the vicinity of the existing and proposed realignment of Peyton Slough.

Fill

Section 66605(a) of the McAteer-Petris Act states that further filling of the San Francisco Bay should be authorized only when the public benefits from the fill clearly exceed the public detriment of the loss of the water area to be filled, that fill be limited to water-oriented uses (e.g., ports, water-related industry, wildlife refuges, etc.), that no alternative upland location is available for proposed fill projects, and that the location of the fill should minimize harmful effects to the Bay area such as water quality, fertility of marshes or fish or wildlife resources.

Figure B-19 of the Draft EIR depicts an approximately 500-square-foot work area and 1,500 linear feet of pipe stringing area in tidal marsh between the existing and proposed Peyton Slough alignment(s). While additional information is necessary to fully understand the implications of the Phase 2 project elements, any approved fill would have to meet the requirements of the McAteer-Petris Act outlined above.

Tidal Marshes

The Commission's policies on tidal marshes state that "...Tidal marshes and tidal flats should be conserved to the fullest possible extent. Filling, diking, and dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefits and only if there is no feasible alternative...." and "...Any proposed fill, diking, or dredging project should be thoroughly evaluated to determine the effect of the project on tidal marshes and tidal flats, and designed to minimize, and if feasible, avoid any harmful effects...."

BCDC staff worked extensively with the Regional Water Quality Control Board, other agencies and Rhodia, Inc., for over two years on the Peyton Slough remediation project. The project involves remediation of sediments contaminated with copper and zinc that occur within the existing Peyton Slough and the surrounding marsh. To mitigate the effects of the remediation project, Rhodia is required to construct a new slough to replace the hydrologic function of the existing slough, which would be capped, and establish marsh vegetation in the area between the new and existing slough(s).

BCDC staff is concerned that Phase 2 of the SFPP project could potentially penetrate the cap placed on contaminated sediments in the existing slough and puncture cut off walls in the marsh between the existing and new slough(s) causing migration of copper and zinc into the new slough and surrounding marsh. In addition, as part of their BCDC permit requirements Rhodia, Inc., is required to monitor the establishment of tidal marsh vegetation in the area between the existing and proposed sloughs for a period of ten years. At the end of ten years, Rhodia is required to reach a 100% vegetative cover of this area to mitigate for impacts to tidal

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marsh. Phase 2 activities may conflict with Rhodia's BCDC permit requirements for tidal marsh establishment and impede Rhodia's ability to meet specified performance criteria. Given the potential for inconsistencies with the Commission's policies, BCDC staff recommends that the project proponent seriously consider modifying the Phase 2 portion of the pipeline so that it avoids construction within the Peyton Slough Remediation Area.

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Thanks you for allowing the Commission's staff an opportunity to review and comment on the Draft EIR for the SFPP project. If you have any questions regarding this letter or the Commission's policies, please feel free to contact me at (415) 352-3659 or michellel@bcdcc.ca.gov.

Sincerely,



MICHELLE BURT LEVENSON
Permit Analyst

cc: Nadell Gayou, State Resources Agency
Katie Shulte-Young, California State Clearinghouse
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Responses to Comment Set 34

- 34-1 Please see the Responses to Comments 14-3 and 33-17 regarding Phase 2 Carquinez Strait Crossing. The CSLC understands the jurisdiction of the BCDC. When and if an application for Phase 2 is submitted, the BCDC will be consulted.